IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Crl. Revision No. 1249 of 2005

Date of Decision : 16.04.2007

Prem Singh

…. Petitioner

Versus

Karam Singh and others.

…. Respondents

CORAM : HON'BLE MR. JUSTICE S.D. ANAND

Present : Mr. V.K. Bali, Advocate,
for the petitioner.

Mr. Munish Kaushal, Advocate,
for respondent Nos. 1 to 6.

Mr. Himanshu Raj, Assistant Advocate General,
Haryana, for respondent No.7.

S.D. Anand, J.

Heard.

The private respondents-accused were convicted by the learned Trial Magistrate for offences under Sections 323, 324, 325, 326, 148 read with Section 149 of the Indian Penal Code. An appeal filed by them against the finding of conviction (and order of point of sentence) is pending consideration of the learned Sessions Judge, Karnal. In the light of the pendency of that appeal, the present petition filed by the complainant for enhancement of sentence is plainly incompetent. By the very nature of things, a petition for

enhancement would be competent after the appeal pending in the Court of Sessions at Karnal comes to be disposed of.

Insofar as the application for additional evidence is concerned, that too cannot be said to be competent before this Court in view of the pendency of the appeal in the Court of Sessions. If the petitioner has a grievance that an application for additional evidence filed by him before the learned Trial Magistrate remained undisposed of, he ought to make a grievance of that fact before the learned Court of Sessions in accordance with law. The disposal of that application by this Court and continuation of the proceedings before this Court would disable the Sessions Court from dealing with the appeal against the judgment under reference.

The reliance placed by the learned counsel for the petitioner upon 2004(2) RCR (Criminal) 836 is misconceived inasmuch as no parallel, as between the facts of that case and the facts obtaining on the present file, is drawable.

In the light of the foregoing discussion, the present revision petition filed by the complainant shall stand disposed of as premature. The stay order granted by this Court on 15.07.2005 shall stand vacated. The learned Sessions Judge should proceed to dispose of the appeal in accordance with law.

April 16, 2007 (S.D. Anand)
vkd Judge